

FOURTH APPELLATE DISTRICT
DIVISION ONE
JUNE 7, 2004

D043570 People v. McKay

The judgment is affirmed. McIntyre, J.; We Concur: McDonald, Acting P.J., Irion, J.

D042850 Vusse v. Bates

Upon written request filed by the appellant, the appeal is DISMISSED and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 2(c)(2)).

D043268 People v. Allen

The judgment is affirmed as modified. Nares, Acting P.J.; We Concur: Haller, J., McDonald, J.

D043558 People v. Harris.

The judgment is affirmed. McDonald, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

D043254 Fastrucking.Com v. Superior Court of San Diego County/Gary Davis et al.

Let a writ issue directing the superior court to vacate its order denying the motion for disqualification of counsel, and to enter a new and different order granting the motion. Petitioner's request that we remand this action to a different judge (see Code Civ. Proc., section 170.1, subd. (c)) is denied. The temporary stay of the proceedings issued by this court on December 29, 2003, is vacated. Petitioner is entitled to costs in this writ proceeding. McIntyre, J.; We Concur: Huffman, Acting P.J., Aaron, J.

D042965 Campbell Industries v. San Diego Unified Port District

The order is reversed and the matter is remanded with directions that the trial court vacate the order and issue a new order granting Defendants' motion to compel arbitration consistent with this opinion. Defendants shall recover their costs on appeal. McDonald, J.; We Concur: Benke, Acting P.J., Huffman, J.

D042148 People v. McHugh

The judgment is affirmed. CERTIFIED FOR PUBLICATION McDonald, J.; We Concur: Benke, Acting P.J., Huffman, J.

D041730 People v. Gibson

D042882 In re Gibson on Habeas Corpus

The pending petition for writ of habeas corpus, In re Renaldo E. Gibson, D042882, is consolidated with the pending appeal, People v. Ronaldo Eugene Gibson, D041730, for oral argument and disposition.

D041730 People v. Gibson

D042882 In re Gibson on Habeas Corpus

The judgment is affirmed. The petition for writ of habeas corpus is denied. Haller, J.; We Concur: Benke, Acting P.J., Aaron, J.

D042654 Dimenstein et al. v. City of Imperial Beach

Upon written stipulation filed by the parties to the appeal, the appeal is dismissed and the remittitur is ordered to issue immediately (Cal. Rules of Court, rule 20(c)(2)).

D043820 In re Jose A., a Juvenile

The appeal is dismissed. Irion, J.; We Concur: Nares, Acting P.J., Haller, J.

FOURTH APPELLATE DISTRICT
DIVISION ONE
JUNE 7, 2004 (Continued)

D041115 In re the Marriage of Moeller

The petition for rehearing is denied.

D043982 In re Poucher on Habeas Corpus

The petition is denied.

D043792 In re Poucher on Habeas Corpus

The petition is denied.

D044245 In re Staffiero on Habeas Corpus

The petition is denied.

**D044055 Wahman v. Workers' Compensation Appeals Board/California Department of
Corrections**

The petition is denied as premature.

FOURTH APPELLATE DISTRICT
DIVISION ONE
JUNE 8, 2004

D044210 In re Richmond on Habeas Corpus

The petition is denied.

D044178 Bierman et al. v. Superior Court of San Diego County/Rabuchin et al.

The petition is denied.

D044051 Krzykowski v. Workers' Compensation Appeals Board et al.

The petition is denied.

D042503 People v. Johnson

The conviction and sentence are affirmed. The matter is remanded for the trial court to modify the abstract of judgment to include a recommendation Johnson be placed in the Right Turn program and advise the Department of Corrections of the modification. Benke, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D042717 Davila et al. v. J.W.D. Enterprises, Inc., et al.

D044257 Davila et al. v. Louie et al./Rodriguez

The motion to consolidate the above-entitled appeal is granted. All documents will be filed under D042717.

D042245 C.O.D. Gas and Oil Company, Inc. v. ACE American Insurance Company

The judgment is reversed. C.O.D. is entitled to costs on appeal. McConnell, P.J.;
We Concur: Nares, J., Irion, J.

D043966 La Mesa/Spring Valley School District v. Workers' Compensation Appeals Board et al.

The petition is denied.

D043950 In re Roy T., JR., a Juvenile

The appeal is dismissed. Aaron, J.; We Concur: Haller, Acting P.J., O'Rourke, J.

D042637 In re Abdalla S., a Juvenile

The order declaring Abdalla a ward is affirmed. Huffman, Acting P.J.; We Concur: Haller, J., Aaron, J.

D042195 Elite Show Services, Inc. v. Staffpro, Inc., et al.

D042753 Elite Show Services, Inc. v. Staffpro, Inc., et al.

The orders are affirmed. Staffpro is entitled to recover its costs on appeal. CERTIFIED FOR PUBLICATION. McIntyre, J.; We Concur: McConnell, P.J., Nares, J.

D040417 Prigmore v. MiraCosta Community College District

With respect to Prigmore's appeal, we affirm the April 30, 2002 judgment. MiraCosta's appeal from the original February 15, 2002 judgment is moot. MiraCosta shall recover its costs on appeal. Nares, J.; We Concur: McConnell, P.J., McIntyre, J.

FOURTH APPELLATE DISTRICT
DIVISION ONE
JUNE 8, 2004 (Continued)

D043969 Allied Insurance Company v. Superior Court of San Diego County/Morberg et al.
The order to show cause issued on April 13, 2004 is discharged as improvidently granted. The petition for writ of mandate is dismissed as moot.

D041702 Boehle v. Westminster Investments, Inc., et al.
The judgment is affirmed. The cross-appeal is dismissed. Irion, J.; We Concur: McDonald, Acting P.J., McIntyre J.

FOURTH APPELLATE DISTRICT
DIVISION ONE
JUNE 9, 2004

D043821 In re Marriage of Minnifield

Upon written request filed by appellant, the appeal is dismissed.

D042022 NNWS, Inc. v. Hughes Network Systems, Inc.

The judgment is reversed and remanded for further proceedings consistent with the views we have expressed. McIntyre, Acting P.J.; We Concur: O'Rourke, J., Irion, J.

D042719 In re Jesus C., a Juvenile

The judgment is affirmed. O'Rourke, J.; We Concur: Nares, Acting P.J., Irion, J.

D044349 Suburban Propane v. Superior Court of San Diego County/Imperial Welding Supply Co. Inc.

At the request of petitioner, the petition for writ of mandate is dismissed.

D042100 Annette F. v. Sharon S.

D042375 Annette F. v. Sharon S.

The judgment is modified by striking the presumed parent finding. As so modified, the judgment is affirmed. Benke, Acting P.J.; We Concur: McIntyre, J., O'Rourke, J.

D043200 In re Angela J., a Juvenile

The judgment terminating parental rights is reversed. The matter is remanded to the juvenile court with directions to ensure that the record reflects that proper notice has been given under the ICWA.

To the extent the trial court determines the Agency has already given proper notice as outlined under In re Karla C., supra, 113 Cal.App.4th at p. 179, a record to that effect, including the filing of the requisite notices, receipts and responses, shall be made. After the record has been perfected in this manner, the court shall thereafter reinstate the judgment.

To the extent the Agency is unable to file the notices, receipts and responses required under the In re Karla C., supra, 113 Cal.App.4th at p. 179 in the trial court upon remand, or if the trial court determines that the notices that were sent did not contain sufficient information to comply with the ICWA, the trial court shall ensure that proper notice is given and that a proper record is made. If the court determines that, after receiving proper notice, no tribe has intervened, the court shall reinstate the judgment. (See Dwayne P., supra, 103 Cal.App.4th at p. 261.) If a tribe intervenes, then further proceedings shall be had according to law. Aaron, J.; We Concur: Huffman, Acting P.J., McIntyre, J.

D042999 Hall v. Hall et al.

Appellants have failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal filed on September 15, 2003 by Charles V. Hall, Nora Hall and Christian Television in Italy is dismissed.

D044168 Esmeralda L. v. Superior Court of San Diego County/San Diego County Health and Human Services Agency

By failing to file a timely petition for writ relief, the notice of intent is deemed to be abandoned. The case is dismissed.

D044455 Swadener v. Superior Court of San Diego County/People

The petition is denied.

FOURTH APPELLATE DISTRICT
DIVISION ONE
JUNE 9, 2004 (Continued)

D044149 In re Ausler on Habeas Corpus

The petition is denied.

D044278 In re Bryant on Habeas Corpus

The petition is denied.

D044417 Bates v. Superior Court of San Diego County/Vusse

The petition is denied.

FOURTH APPELLATE DISTRICT
DIVISION ONE
JUNE 10, 2004

D041358 Collins v. Feldman et al.

D041569 Collins v. Feldman et al.

D042959 Collins v. Feldman et al.

Consolidated case. The Sunroad defendants' D041358 appeal is dismissed. The trial court's August 2003 order vacating the Second Amended Judgment and the Post-Remand Orders and reinstating the 2000 judgment is reversed. Its November 2002 order and the Second Amended Judgment are reversed insofar as they award Collins attorney fees and costs incurred in prosecuting his unsuccessful claim against the Port and insofar as they award him attorney fees against Feldman and the Successor Partnership. In all other respects, the Second Amended Judgment and the Post-Remand Orders are affirmed. The matter is remanded for further proceedings to determine the amount of Collins's recoverable attorney fees and costs and the amount to be subtracted from Collins's recovery as a result of his withdrawal of the deposited funds. The parties are to bear their own costs of appeal. McIntyre, J.; We Concur: McConnell, P.J., McDonald, J.

D044066 U. S. Airways et al. v. Workers' Compensation Appeals Board et al.

The petition is denied.

Court convened at 10 a.m.

Present: The Honorable Judith McConnell, Presiding Justice, and The Honorable Associate Justices Richard Huffman and Cynthia Aaron
Clerk: D E Moore

D039816 Goehring, et al. v. Chapman University

Cause called on merits. Steven Geoffrey Madison, Esq. argued for appellant/cross-respondent, Yeomans and Mann. Duke Wahlquist, Esq. and Jayne Taylor Kacer, Esq. argued for Chapman University. Mr. Madison replied. Mr. Wahlquist replied. Kevin O'Connell, Esq. was present in oral argument for appellant/cross-respondent, Goehring, but did not argue. Cause submitted.

Court adjourned at 11 a.m.

D044276 In re Orozco on Habeas Corpus

The petition is denied.

D044213 County of San Diego v. Workers' Compensation Appeals Board and Mary Rojas-Melzer

Let a writ of review issue ordering the Workers' Compensation Appeals Board to certify and return to this court any materials which were before the Board in making its decision in Mary Rojas-Melzer v. County of San Diego, SDO254233, which are not contained in the petition for writ of review currently before this court. These materials should be received by this court on or before July 12, 2004.

Leave is granted to the Board to appear in these proceedings and to file a response no later than August 12, 2004. Petitioner may file a reply on or before August 25, 2004. Oral argument will be deemed waived unless requested on or before August 25, 2004.

D042915 Margala v. Pacifica Reo, LLC,

Appellant has failed to file a brief after notice given pursuant to California Rules of Court, rule 17(a). The appeal is dismissed.